



ASPER REVIEW
OF
INTERNATIONAL BUSINESS
AND
TRADE LAW

V O L U M E V I

Submissions are being accepted for the Asper Review of International Business and Trade Law Volume VI

- The Review welcomes submissions that are academically sound and accessible to a general audience.
- Topics should address trade issues that are of global interest or in which Canada has a material involvement.

ASPER REVIEW PRIZE In Memory of Israel (Izzy) Asper

- A cash prize of \$1,000 will be awarded to the best submission from a Student, Graduate Student, Assistant Professor or Sessional Lecturer at a Canadian University, outside manitoba.

All submissions will be judged by an independent committee

Submissions may be sent via email to: Maria_Tepper@umanitoba.ca
or mailed to: Asper Chair
Faculty of Law
303 Robson Hall
University of Manitoba
Winnipeg, MB R3T 2N2

The Asper Review is published by the Asper Chair of International Business and Trade Law, the Canadian Credit Management Foundation, the University of Manitoba Legal Research Institute, with sponsorship from Pitblado LLP, Barristers and Solicitors. Overseeing this publication are Dr. Bryan Schwartz (Asper Chair), Dr. Michelle Gallant (Associate Dean of Research and Graduate Studies), Trevor Weibe (In house Counsel, Pivotal Corporation, Ottawa), and Canadian Credit Management Foundation Fellow, Shane Gross (LL.B. 2004) and Jeysa Martinez-Pratt LL.B. 2005).

ASPER CHAIR
OF INTERNATIONAL BUSINESS AND TRADE LAW



WASHINGTON D.C. CONFERENCE ATTRACTS ASPER CHAIR SPONSORSHIP

The Asper Chair at the Faculty of Law co-sponsored the **NAFTA Investment Law and Arbitration: the Early Years** conference hosted by the American University, Washington College of Law in Washington DC in March 2004. The meeting invited speakers from both sides of the border to speak on a number of issues: *The NAFTA as a Human Rights Treaty, Primary Obligations and Damages, Challenging Awards, Challenging Arbitrators, and Issues in Running the Arbitration*. Professor Bryan Schwartz was one of the panellists exploring the *Future for the International Investment Protection*. The meeting ended with the Arbitrators Roundtable.

The Washington Conference invited the Asper Chair to participate as a co-sponsor in light of the contribution that the Asper Review has made to providing information and commentary on the investor-protecting provisions of NAFTA, and to the broad interest that the international legal community has shown in the approach that Dr. Bryan Schwartz has taken to the interpretation of investor guarantees in the S.D. Myers case.



L-R: Shane Gross, Dr. Bryan Schwartz, Dr. Michelle Gallant, Jeysa Martinez-Pratt

L-R: Shane Gross, Jeysa Martinez-Pratt, Dr. Bryan Schwartz, Alexei Barbuk



NIAGARA MOOT COMPETITION

Under the auspices of the Asper Chair, law students participated in the Niagara Moot Competition at Loyola University in Chicago in March 2003. While Canada-U.S. relations are generally quite amicable, the policies that one country often takes on a broad range of issues are often at odds with the other. The Niagara International Moot

Court Competition exposes law students to these conflicts by holding a three-day moot court competition. The Competition started more than 20 years ago in recognition of the common traditions and social and economic ties that exist between Canadians and Americans.

For more information on the Asper Chair contact



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NIAGARA cont'd

The competition attracted 19 law schools, five of which were Canadian. Participating teams receive an international law problem that is based on an actual ongoing conflict between the two countries. The teams prepare written arguments, which are submitted and graded in advance, and present their oral arguments over the course of the two-day competition.

This year's problem focused on cross-border parental child abduction and the legal issues regarding the recognition of foreign custody orders, the exceptions to the immediate return principle enshrined in the Hague Convention on the Civil Aspects of International Child Abduction, as well as international considerations regarding the enforcement of parental rights.

Krista Boryskavich, an associate at Aikins, MacAulay & Thorvaldson LLP accompanied the team and served as a memorial grader and judge for the competition.



Robson Hall Team Members - L-R: Tara Carter, Paul Waller, Katrin Roth von Szepesbela, and Kurtis Bond

our teams for the national Sopinka Cup Trial Moot, and in its six-year history, Manitoba has won it twice. This year, our team placed second. In 2004, Robson Hall participated in several moots including the Wilhelm Vis, Solomon Greenberg, Jessup, Gale Cup, and Kawaskimhon, the Aboriginal Rights Moot, as well as the Niagara International. Next year, Robson Hall will send a team to the ABA Negotiation Competition.

Experiential learning opportunities at Robson Hall develop skill sets that set our students apart, giving

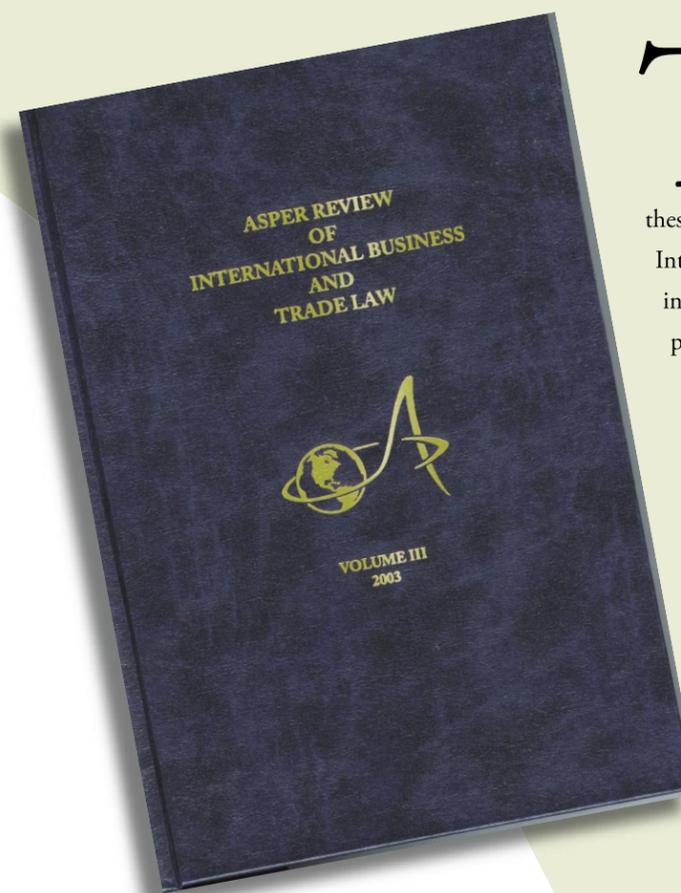
TOP NOTCH ADVOCACY PROGRAM AT ROBSON HALL

Moot competitions present a unique opportunity for students to showcase their advocacy skills and to interact with participants and judges from law schools and legal communities across Canada and the United States. The Faculty of Law's track record in regional and national moot competitions is outstanding. Our success is directly attributable to our well-established Advocacy program, which prepares students to compete against the top law schools. Our teams consistently place in the top ranks, and often bring home the Cup. Over the past few years, our victories at the Western Cup qualified

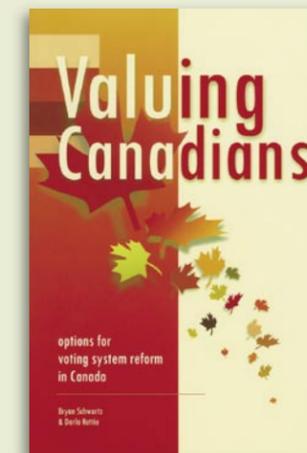
them a competitive edge when they embark on a career in law. Our national reputation in this area is well deserved and we are committed to maintaining this distinction.

A mark of achievement comes at a cost. We are seeking law firms or individuals who would be interested in participating in our moot program by sponsoring one of our competitions. The cost of a moot competition ranges from \$5,000 to \$15,000 annually. Inquiries can be directed to Harvey Secter, Dean and Professor, Faculty of Law, 301A Robson Hall University of Manitoba Winnipeg MB R3T 2N2 Phone ☎ 204 474-9282 or email ✉ Harvey_Secter@umanitoba.ca

PUBLICATIONS

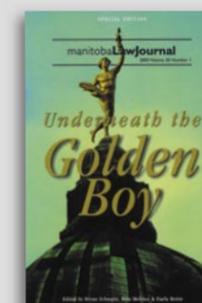


The Asper Review of International Business and Trade Law, now going into its fourth annual publication, is Canada's only academic journal dedicated exclusively to these topics. The third volume of the Asper Review of International Business and Trade Law was published in 2003 and deals with trade issues of global interest, particularly those in which Canada has a material involvement. Essays and articles examine topics Subsidies, Investments, and NAFTA Chapter 11. Also included are public record documents on the Agreement on Internal Trade Panel decisions and NAFTA decisions. Volumes IV, forthcoming 2004, is a special issue focusing on Money Laundering. Clean Hands, Dirty Money was the title of the 2003 conference which took a legal, political and practical look at the new federal and provincial laws on money laundering, terrorist property, corruption of foreign public officials and the proceeds of crime.



In July 2004, the Asper Chair published *Valuing Canadians: options for voting system reform in Canada* by Dr. Bryan Schwartz and Darla Rettie. This study, sponsored by the Law Commission of Canada, looks extensively at the international as well as Canadian experience in examining one of the most important and contentious issues: reform to the voting system. Dr. Schwartz presented his conclusions at a panel of the British Columbia Citizens Assembly on electoral reform in March 2004.

In addition to creating and editing the Asper Review, Dr. Schwartz is responsible for *Underneath the Golden Boy*, an annual examination of legislative activity in Manitoba. Volume I, and the forthcoming Volume III, include detailed reviews of many individual statutes enacted in Manitoba in recent years. Volume II, published in June 2004, is a special issue that looks back at legislative crises in Manitoba over the past decades, including the French language crisis, Meech Lake, the fall of the Pawley government and the sell-off of MTS.



In 2003, Manitoba Law Journal published a special edition of *Underneath the Golden Boy*. Edited by Dr. Bryan Schwartz, Erin Melrose, and Darla Rettie, this volume examines the lessons learned from four crises in the Manitoba Legislative Assembly. Using the successful format of the inaugural issue, the editors summarize the issues then discuss with key participants directly involved in the legislation the unique and challenging procedural situations.

- *The French Language Debate on constitutional amendments involving French language services (1983-84)*
- *The Defeat of the Pawley Government: The swing vote of one MLA caused the defeat of the government (1988)*
- *Meech Lake Accord: Elijah Harper used procedural rules to stall debate on the accord and prevent its ratification by the Manitoba Legislative Assembly (1990)*
- *The MTS Debate: Temporary rules and the contentious nature of the privatization bill combined to create an eruption in the Manitoba Legislative Assembly unlike anything ever witnessed (1996)*

"Underneath the Golden Boy" is a project of the Legal Research Institute of the University of Manitoba. Finding its audience has been facilitated by the decision of the MLJ to publish the first two volumes as a special edition of the Law Journal. First published in 1885 and continually published since 1961, the Manitoba Law Journal is committed to providing the legal community with challenging and thought-provoking articles from academics, practitioners, and students. Under the direction of Professor Lorna Turnbull, the editorial board of the Manitoba Law Journal is comprised of Law students who are responsible for all aspects of the publication.